



**Keith L. Seat**  
Senior Counsel  
Federal Advocacy  
1133 19<sup>th</sup> Street, NW  
Washington, DC 20036  
202 887-2993  
Fax 202 736-6359

January 9, 2003

By Electronic Filing

Marlene H. Dortch  
Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: WC Docket No. 02-384: Application by Verizon for  
Authorization to Provide In-Region InterLATA Services in  
Maryland, Washington, D.C., and West Virginia

Dear Ms. Dortch:

WorldCom submits this letter in lieu of formal comments on Verizon's section 271 application for Maryland, Washington, DC, and West Virginia to note a critical issue concerning UNE pricing in Washington, DC, that is fatal to Verizon's section 271 application.<sup>1</sup>

Verizon should withdraw its pending application because it cannot satisfy the applicable section 271 standards for UNE rates in Washington, DC. At present, the UNE rates in effect in DC are the old interim rates that plainly do not meet the TELRIC standard, as even Verizon admits in its most recent response to the Public Service Commission of the District of Columbia ("DC PSC") (Verizon Response to Order 12626, Jan. 7, 2003, at 3, 4, filed as ex parte in WC Docket No. 02-384, Jan. 8, 2003 ("Response")). As a result, Verizon's application must be rejected.

Verizon finds itself in this predicament because it is unwilling to live with the improved UNE rates that the DC PSC established in its recent rate proceeding (DC PSC

---

<sup>1</sup> WorldCom also has several ongoing operational issues that it continues to work to resolve with Verizon. WorldCom does not intend to raise these as section 271 issues, however, unless the problems worsen or the parties are unable to make progress towards resolution in coming weeks. In addition, WorldCom has raised serious competitive issues concerning Verizon's arbitrary limits on its rearrangement of circuits (so-called "grooming") and Verizon's obligations regarding LIDB with the Commission's Enforcement Bureau and Wireline Competition Bureau, respectively. Because of the Commission's seeming preference that such issues be resolved outside the section 271 context, WorldCom will not raise these issues here, but hopes that the Commission will quickly resolve WorldCom's concerns.

Order No. 12610, Dec. 6, 2002). Verizon was forthright in its section 271 application in asserting that it would seek to brush aside the DC PSC's new rate decision, which it did by filing for reconsideration on January 3, 2003. Verizon also acknowledged that its challenge to the rates established by the DC PSC acts to stay the implementation of those rates (until the DC PSC resolves Verizon's petition), since it has refrained from requesting that the order not be stayed. Recognizing that it could not satisfy the requirements of section 271 with the much higher interim rates that would apply during the pendency of its reconsideration application, Verizon sought unilaterally to apply the new New York rates in DC where necessary to meet the New York benchmark. In its section 271 application, Verizon stated without qualification that it "will make" New York rates available in DC upon filing its application to reconsider DC's improved UNE rates (see 56, 57).<sup>2</sup>

However, Verizon failed to obtain the necessary permission of the DC PSC for this plan. On January 6, 2003, the PSC issued an order which begins by stating that "[i]n no event is Verizon DC authorized to use rates established in New York, benchmarked or otherwise" (DC PSC Order 12626, Jan. 6, 2003, ¶ 1), and concludes by unambiguously ordering that "Verizon DC is prohibited from using New York unbundled network element rates" or any other rates the PSC has not approved (id. ¶ 7). The PSC explains that Verizon can either implement the new DC rates, or prevent the new DC rates from being automatically stayed during reconsideration, but that there is "no law, rule, regulation, or policy" permitting Verizon to "implement rates of its own choosing" (id. ¶ 5).

Verizon now acknowledges, as it must, that the rates it relies on in its application are subject to the approval of the DC PSC. Verizon should not have filed until adequate rates were in effect and its application was complete. But the PSC had not approved Verizon's chosen rates at the time Verizon filed. And the PSC still has not approved them. As a result, Verizon's application – which purported to rely on the old DC UNE rates adjusted to minimally meet the New York benchmark – is fatally flawed. Verizon should withdraw its application and resubmit it only when its reconsideration efforts have been exhausted and the new DC rates are final and in effect. If Verizon does not withdraw its application, the Commission must deny it.

---

<sup>2</sup> Verizon sent a letter dated December 18, 2002 to CLECs informing them that Verizon would unilaterally incorporate certain New York rates in the CLEC invoices, and that paying the invoices would be CLEC "acceptance" of such changes, which would thereafter be "incorporated into your [CLEC] interconnection agreement subject to Commission approval" (Response, Att. A).

\* \* \* \* \*

Pursuant to the Commission's rules, I am filing an electronic copy of this letter and request that it be placed in the record of this proceeding.

Sincerely,

Keith L. Seat

cc: Janice Myles  
Gail Cohen  
Gary Remondino  
Susan Wittenberg (DOJ)  
Jackson Nichols (DOJ)  
Donald Laub (Maryland PSC)  
Felicia Greer (Maryland PSC)  
Rick Hitt (West Virginia PSC)  
Sandford M. Speight (District of Columbia PSC)  
Ellen Brown (District of Columbia PSC)  
Michael E. Glover (Verizon)  
Steven McPherson (Verizon)  
Evan T. Leo (Kellogg, Huber)  
Qualex